

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

REGINALD YEARBY

*

Petitioner,

*

v.

*

2:05-CV-490-MHT

SCOTT MIDDLEBROOKS, WARDEN

*

Respondent.

*

ORDER

Petitioner, Reginald Yearby [“Yearby”], filed this habeas application seeking to compel the Bureau of Prisons [“BOP”] to grant him a one-year sentence reduction under 18 U.S.C. § 3621(e)(2)(B) due to his successful completion of the BOP’s Residential Drug Abuse Treatment Program [“RDAP”]. The BOP denied Yearby the one-year sentence reduction because he received a sentence enhancement for possession of a firearm in connection with his drug conviction which made him ineligible for the benefit afforded by § 3621(e)(2)(B). Yearby contends, however, that the program statement on which the BOP relied in order to deny him eligibility for early release is invalid, and therefore, may not be used to deny him eligibility for early release where he successfully completed RDAP. As relief, Petitioner requests that the BOP be compelled to reconsider his eligibility for early release and cease from withholding such benefit.

A review of the court file reflects that Petitioner is no longer incarcerated.¹

Accordingly, Petitioner shall be granted an opportunity to show cause why his application for habeas relief should not be dismissed as moot.

Accordingly, it is ORDERED that on or before **March 10, 2006** Petitioner shall show cause why his petition for habeas corpus relief should not be dismissed as moot

Done this 7th day of March 2006.

/s/ Vanzetta Penn McPherson
VANZETTA PENN MCPHERSON
UNITED STATES MAGISTRATE JUDGE

¹At the time the instant petition was filed, Yearby was incarcerated at the Maxwell Federal Prison Camp located in Montgomery, Alabama.